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September 7, 1993

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
Washington, D.C. 20554

Re: Amendment of Section 73.202(b)  
FM Table of Allotments  
Pateros, Washington  
(MM Docket No. 93-175; RM-8264)

Dear Mr. Caton:

Transmitted herewith on behalf of Pateros Community Broadcasters is an original and four copies of its reply comments in the above-referenced rule making proceeding. These comments are directed to the Chief, Allocations Branch.

Should any questions arise concerning this matter, please contact this office directly.

Sincerely,

  
John F. Garziglia

Enclosure

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Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
 Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION  
 OFFICE OF THE SECRETARY

In the Matter of	)	MM Docket No. 93-175
Amendment of Section 73.202(b),	)	
Table of Allotments,	)	RM-8264
FM Broadcast Stations.	)	
(Pateros, Washington)	)	

To: Chief, Allocations Branch

**REPLY COMMENTS**

Pateros Community Broadcasters, by its attorneys, pursuant to Notice of Proposed Rule Making, DA 93-666, released June 30, 1993, hereby submits its reply comments to the August 23, 1993 comments of the Central Washington Non-Commercial Translator Operators (hereafter "CWNTO"). In reply thereto, the following is submitted:

1. Pateros Community Broadcasters, in its June 1, 1993 Petition for Rule Making, specifically requested the allotment of Channel 300A to Pateros, Washington as first local transmission service. Pateros Community Broadcasters carefully considered the allotment scheme in the FM Table of Allotments and came to the conclusion that Channel 300A is the preferred channel for allotment to Pateros. Pateros Community Broadcasters does not intend to file an application for first local transmission service at Pateros unless Channel 300A is authorized to Pateros, Washington.<sup>1/</sup> If another channel is allotted to Pateros other than Channel 300A, Pateros Community Broadcasters will not file

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<sup>1/</sup> In its July 1, 1993 Comments, Pateros Community Broadcasters was specific in stating its present intention to apply for Channel 300A if allotted to Pateros, and if authorized, to build a station promptly.

an application and thus will not provide first local transmission service to Pateros.

2. CWNT0 objects to the allotment of Channel 300A to Pateros, claiming that such an allotment will interfere with the signal of KMBI-FM, Spokane, Washington as it is received in the following communities: Moses Lake, Royal City, Pateros, Chelan, Tri Cities, and Tonasket, Washington. In other words, CWNT0 is seeking to deny the allotment of Channel 300A to Pateros based upon protection to KMBI-FM significantly outside its 1 mV/m contour. KMBI-FM is a Class C facility operating with 56 kilowatts at a height above average terrain of 725 meters. Under Section 73.211(b)(1) of the Commission's rules, KMBI-FM is given protection to a contour radius of 92 kilometers from its transmitter site. The following are the distances of each location that CWNT0 is seeking to protect for KMBI-FM:

<u>Location</u>	<u>Kilometers to KMBI-FM</u>
Moses Lake	192.1 kilometers
Royal City	209.9 kilometers
Pateros	222.7 kilometers
Chelan	223.0 kilometers
Tri Cities	225.7 kilometers
Tonasket	217.9 kilometers

Each of these locations is significantly beyond the KMBI-FM contour. Essentially, CWNT0 argues that first local transmission service for Pateros should be denied in order to continue to protect reception that is, at best, problematic from KMBI-FM.

3. CWNT0 alleges that by protecting the KMBI-FM signal far beyond its protected contours, the Commission would be protecting "quality Christian programming [that] is not otherwise available in the region". CWNT0 Comments at paragraph 2. This assertion

is patently inaccurate and highly misleading. KGTS, College Place, Washington, provides Christian programming directly and through educational translators to much of the population in the area referenced by CWNTO. KGDN, Pasco, Washington, provides quality Christian programming. In addition, the Tri Cities is served by KOLU, Pasco, providing quality Christian programming. Finally, KTBI, Ephrata, an AM station operating with 50,000 watts, provides quality Christian programming to each of the locations complained of by CWNTO.

4. Pateros Community Broadcasters appreciates that CWNTO commissioned an engineering study to locate alternative Class A commercial FM channels for Pateros. The same argument against Channel 300A of potential interference to stations beyond protected contours, however, may be equally made against the channels suggested by CWNTO. CWNTO complains because KMBI-FM is 226.11 kilometers distant from the proposed allotment of Channel 300A to Pateros. Channel 238A, suggested by CWNTO, is but 166.93 kilometers distant from Class C Station KLTX(FM), Seattle, on an adjacent channel. Likewise, Channel 245A is a mere 83.68 kilometers distant from the adjacent channel operation of KWWW-FM, Quincy, Washington. If the arguments made by CWNTO are accepted, no new FM allotments could be made as each FM station would find reasons for which to seek protection beyond its protected service area contours.<sup>2/</sup>

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<sup>2/</sup> Indeed, each channel that could potentially be allotted to Pateros appears to affect someone somewhere. For instance, Channel 257A, a channel that appears to be clear, would displace an application for a Channel 257 translator at Brewster, Washington (FCC File No. BPFT-930622TG).

5. Long ago, the Commission decided that the FM Table of Allotments would be based upon spacing, not interference considerations. See e.g. FM Broadcast Rules - First Report and Order, 40 FCC 662 (1962); FM Broadcast Rules - Third Report, Memorandum Opinion and Order, 40 FCC 747 (1963). CWNTD requests that the Commission ignore this long-standing precedent and instead give credence to its complaint that KMBI-FM should be protected well beyond its service area contour. This is an argument that simply should not be accepted by the Commission.<sup>3/</sup>

6. As noted above, Pateros Community Broadcasters will not apply for this allotment unless the allotment is made on Channel 300A at Pateros. Accordingly, if Channel 300A is not allotted to Pateros, Pateros will be denied first local transmission service.<sup>4/</sup> Accordingly, Channel 300A should be allotted to Pateros as proposed in the Notice of Proposed Rule Making.

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<sup>3/</sup> CWNTD also references in its engineering exhibit alleged line-of-sight problems from the site coordinates chosen for the Channel 300A Pateros allotment. The area in which to locate a Channel 300A allotment to Pateros is quite large. Thus, full coverage of Pateros will not be a problem.

<sup>4/</sup> No other comments were filed expressing interest in the allotment of a channel to Pateros to provide first local transmission service.

WHEREFORE, for the reasons above, the allotment of Channel 300A should be made to Pateros, Washington.

Respectfully submitted,

**PATEROS COMMUNITY BROADCASTERS**

By:   
John F. Garziglia  
Its Attorney

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September 7, 1993

**CERTIFICATE OF SERVICE**

I, Tracey Westbrook, a secretary in the law firm of Pepper & Corazzini, do hereby certify that a true copy of the foregoing Reply Comments were sent this 7th day of September, 1993, first class U.S. mail, postage prepaid, to the following:

Jeffrey D. Southmayd, Esquire  
Southmayd & Miller  
1233 20th Street, N.W.  
Suite 205  
Washington, D.C. 20036  
(Counsel to Central Washington Non-Commercial  
Translator Operators)

  
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Tracey Westbrook